Supreme Court, U.S.
FILED

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No. _____

InThe
UNITED STATES SUPREME COURT
AMERICA

October Term, 2000

IN RE
EILEEN VEY

Habeas Corpus
Petition

HABEAS CORPUS EXPEDITION REQUESTED

DR. EILEEN VEY, Th.D.
804 Cedar Avenue
Pittsburgh PA 15212
(412) 322-3131

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QUESTION PRESENTED

I.

SHOULD THE U.S. SUPREME COURT GRANT PETITIONER'S 17-YEAR PRIMA FACIE HABEAS CORPUS, SINCE SHE WAS DENIED RELIEF FROM HER ILLEGAL CUSTODY TO STATE (PAROLE) BY THE PENNSYLVANIA SUPREME COURT AGAIN, ARTICLE I § 9(2), 28 USC §§ 2241, 2254.

PARTIES INVOLVED

Dr. Eileen Vey, Commonwealth of Pennsylvania, and District Attorney, Stephen Zappalla.

TABLE OF CONTENTS

SUBJECT	PAGE
Parties Involved	i
Table of Contents	ii
Writ of Certiorari (3RD and PA state) Petition	1
Opinion Below	1
Jurisdiction	1
U.S. Constitutional Provision	2
Statement of Case	2
REASONS FOR GRANTING WRIT	2
CONCLUSION	13
MOTION FOR HABEAS CORPUS EXPEDITION	
APPENDIX	
PA SUPREME COURT ORDER	APPENDIX 1
3RD CIRCUIT ORDER	APPENDIX 2
3RD CIRCUIT OPINION	APPENDIX 3

TABLE OF CITATION

AUTHORITY

U.S. CONSTITUTION

Article I § 9 (2) 2, 9, 10
Amendments 1, 2, 4, 5, 6, 8, 9, 14 ..... 2, 10

FEDERAL LAW

18 USC § 242 2
18 USC § 245 ..... 2, 11
42 USC § 1983 1-13
Prima Facie Law 7, 8

FEDERAL CASE SITES

Benton v. Maryland 13
Cist v. Bretz 12
Cuyler v. Sullivan 8, 13
Edwards v. Carpenter 9, 13
Ex parte Lang 13
Green v. Massey 12
Fiore v. White 8
Hopins v. Newman 9 13
Husbands v. Com of PA 8
Jeffes v. US 12
Keeney v. Tamayo-Rayes 13
Murray v. Carrier 13
Williams v. Tayor 13

PA STATE CASE & STATUTES

18 PA CS § 6101(b) 5
42 PA CS § 9545 (b)(1) 8-10
PA Constitution 8
PCRA (Post-Conviction Relief) 9
Com v. Stonehouse 7

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No. _____

In The
UNITED STATES SUPREME COURT
AMERICA

October Term, 2000

HABEAS CORPUS PETITION

REQUEST For Habeas Corpus Expedition

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The petitioner, Eileen Vey ("Vey"), hereby prays that a writ of Habeas Corpus will be granted by this Court since she is being denied its relief in the state Courts for 17 years. Moreover, she requests this same prima facie habeas corpus be expeditied.

OPINIONS BELOW

Again, this 17-year state case was entered again at both No. 00-4362 Third Circuit Court of Appeals under Rules 11, 20.2 & 20.3 Extraordinary Writ mandamus/prohibition, where it was denied on February 26, 2001 and at No. 99 WM 2000 Pennsylvania Supreme Court under Kings Bench Matters of Habeas Corpus, where it was denied January 17, 2001 (Appendix 1). Moreover on March 15, 2001, the Pennsylvania Superior Court refused Vey rightful relief, she's innocence, under guise of a timely bar to relief, which exception criterion she met!

JURISDICTION

Jurisdiction is envoked under Article I § 9(2) and 28 USC § 2241-2254.

U.S. CONSTITUTIONAL & FEDERAL PROVISIONS

Article I § 9(2) Habeas Corpus, 28 USC §§ 1651(a), (deprivations above, Amendments 1, 2, 4, 5, 6, 8, 9, 14, prima facie law, federal and state statutes and case law, obstruction of justice, etc.).

STATEMENT OF CASE

This prima facie state habeas corpus has been submitted voluminously to the courts for 17 years, and in this Court since about 1988. In brief, Vey has been criminally tortured repeatedly for 17 years in this litigation sweatshop of her continuously having to submit litigation under various guises of procedure quirks, while Vey has known courts to be lenient to pro se considerations and while she repeatedly proved she is innocent of state charges.

She is a political prisoner due to retaliations by vindictive people who are illegally kidnapping (parole) her under guise of procedural bars, which defy higher laws, Article I § 9(2). She can not get relief anywhere!

This prima facie state habeas corpus has been submitted to the courts for 17 years, in this Court since about 1988. The recent voluminous data of exculpatory evidence has been submittedin this Court in No. 99-2040. She is a political prisoner due to retaliations by vindictive people who are illegally kidnapping her under guise of procedural bars, which defy higher laws. (parole)

Vey was aquitted of 1ST Degree Homocide and illegally convicted of 3RD Degree Homocide and Carrying a Firearm without a License and Sentenced to 18 years, after proving member in good standing with her community, while others received 5 years for 3RD.

Only until recently did she begin reading the state evidence of Coroner's Inquest Transcripts the end of December 1999 did she realize the extreme rape of her rights. The deceased went down before shots were heard and it was while white station wagon man was with deceased. Before this knowledge, she was denied four state defenses. Now for the first time only, while doing Briefing for the PA Superior Court, she was reading Trial Transcripts, instead of bits and pieces, because it was too traumatic for her, as she has had only incompetent or collusional lawyers, who abandoned her. All this is new data and according to the state record transcripts, the bazaar story of injustice is as follows:

REASONS FOR GRANTING WRIT

Concerning Vey's state prima facie habeas corpus both the U.S. Court of Appeals Court (3RD), Rule 10(a) and the Pennsylvania Supreme Court, Rule 10(b), entered judgments that conflict with this Court and other U.S. Appeals Courts and state court decided an important federal question in a way that conflicts with relevant decisions of this court, as shown in the writs presented to them. Vey is prejudicially being denied the laws of the United States of America under procedural bars below.

As has been noted above and below, Vey can not obtain her rightful habeas corpus relief anywhere as this Court has also noted for about 13 years (1988?). Both the federal court system and the state court system below (Appendix 1-3) show she can not receive relief anywhere below. This also shows she has extraordinary circumstances in that she can not obtain relief in a case that proves she is innocent as the facts show below. Moreover, there are issues here that need this courts reveiw: people in illegal custody and cannot obtain adequate relief (17 years litigation).

According to the laws of God and of the land, Vey is innocent, whether she did act or not. Yet she is being denied these laws. She even was denied a recent procedural bar exception criterion, which she met!

Last year this Court received Vey's prima facie habeas corpus Supplement at No. 99-2040, which showed the recent voluminous exculpatory evidence. That evidence was submitted afterwards to the Courts below, where that was denied. Most important from that list was, 1)there was no valid evidence to link Vey to the alleged bridge scene of the shooting: arrested at hotel, 2) evidence proved Vey was not shooter: deceased went down (silence before shot heard, 3) evidence shows gang ambush (a hit?), 4) evidence tampering: contaminated evidence, 5) Vey not

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NOTE: Dr. or Mrs. Eileen Vey = "Vey"; Husband Eugene Vey = Deceased or was he?; TT = Trial Transcripts; CIT= Coroner's Inquest Transcripts.

NO STATEMENT AND TORTURE

The only evidence that was used against Vey at a non-jury trial was an obvious fabricated statement by a detective. This detective claimed Vey made a statement that she was on the bridge, yet this alleged statement was not only refuted by other police and MD, but was illegally obtained under torture. That is:

1) SUCH A STATEMENT WOULD HAVE BEEN ILLEGALLY OBTAINED UNDER TORTURE AND FEDERAL VIOLATIONS Vey upon first instant said she wanted to remain silent, she wanted lawyer, and she was suffering medical problems at time: pain (excedrin), amnesia, (TT 61 Vey had children, one: TT 53/16), hot to touch (TT 52), was kept for long hours without calling an ambulance, the lawyer she wanted (TT 50 & 63) ....(from 8:40AM to 1:11 PM) BUT THERE WAS NO STATEMENT, ONLY BRAINWASHING THAT VEY DID IT, as they brainwashed everyone else.

2) The detective did not have Vey's signature on his alleged statement. (TT 120-121) If someone gives a voluntary statement, then person would voluntarily sign it! (CIT 97)

3) Police testified Vey said she was suffering amnesia, did not remember, and she wanted to remain silent upon first instant of arrest at William Penn Hotel. Were these rights honored? (TT 61/19 silent; TT 63/21, 65 lawyer; TT 61, amnesia, Vey had children TT53/16)

4) Medical Doctor stated Vey was suffering amnesia (TT 314/10).

5) Medical Doctor stated she knew of no signed statement or document (TT 244; 261/3), only that statement that she was told by lawyer by detective.

6) Detective claimed he made a note, yet he could not produce it at Trial (no evidence) TT 114/14.

7) Detective had hi-tech equipment availability, that is audio taping, yet he said he had no audio tape of such statement at trial, no evidence, (TT 112-114).

8) Detective had video taping available for such taping, yet he had no video tape produced at Trial, no evidence (TT 112-114).

9) On the contrary, Vey made it clear she wanted to remain silent, she wanted a lawyer, she was having physical medical problems, yet no call to lawyer for her, no ambulance, etc. (TT 106, 108).

NO EVIDENCE TO LINK VEY TO BRIDGE
VEY NOT SHOOTER!

The story becomes even more legally bazaar, because THERE WAS NO EVIDENCE TO LINK VEY TO BRIDGE OR

SHOOTING, ON THE CONTRARY:

1) EXCULPATORY EVIDENCE THAT VEY WAS NOT SHOOTER: In this Prima Facie Habeas Corpus "under color of this PCRA petition", Vey submitted to the Trial Court CIT Pages 6 & 7, the evidence that proves she or woman was not the shooter. The truck man said he saw station wagon man at scene and man a woman at scene, and he saw deceased go down without any gun shots heard and seeing woman in trouble was going to help her (CIT 6 & 7 ATTACHED HERETO).

2) There was NO NOISE from a loud 32 gun at the TIME DECEASED WENT DOWN (TT 71, 72, 74, 77, 78, 79; CIT 6 & 7). Noise after deceased went down was decribed as possible car backfire or maybe it was fireworks.

3) Vey gun never had a balistic's test. See MaCabe testimony

4) Detective did a GUN POWDER TEST on Mrs.Vey, but it was never submitted at Coroner's Inquest, nor Trial, because she did not shoot a gun. Nutron activation test taken (:45 AM (TT 106, 60, 258).

5) The GUN: Just because spent casings were found in a gun, does not mean they are relevant to any particular time element. Supposing they were found a year later after used at a firing range? After looking at this trumped up case, Vey has no problem suspecting #1 station detectives of firing gun. The prints on gun were not submitted at court.

6) The GUN: Vey is being denied "exception clause" of PA statute 18 PA SCA § 6101(b). Vey was showing responsibility, by not leaving behind at former residence, where grandchildren to get hurt. Vey was living as transient at time on road, because husband, deceased, was running from police or authorities, as Lt. LeDonne described. Moreover, suffering PTSD.

7) Detective said with Vey entire except when left for kit and later excedrin, but did not call lawyer until 12:05 PM.

8) There was suppose to be pools of blood and if woman was on top of deceased, why was there NO EVIDENCE OF BLOOD on Vey, on shoes, clothes, etc. No evidence at Inquest or Trial. (TT 125 Detective took photo of Vey)

9) Vey was never IDENTIFIED as woman, who did not shoot gun or person: a) Vey was pointed out by detective to witness at #1 station interrogation room #222; b) Vey was denied a line-up ID; c) Vey was not the description of woman wanted, because woman was MEDIUM (CIT 7), BUT Vey is TINY size 5

(sometimes 3 then) and 5' 2½"; d) woman wanted had a bandana (CIT 30 & 32); e) detective said Vey had hair, no bandana (TT 77); others could
not identify Vey (CIT 25, TT 15); f) Vey pointed out in courtroom year later, while she conveniently sitting by lawyer...

10) Other woman never questioned (TT 60/25).

11) No toxologist at Inquest or Trial (CIT 15)

12) Detective said there was a sunglass len at bridge scene that he alleged was Vey's, yet it was not produced as evidence at trial and he admits that alleged len was not examined to be that of Vey's (TT 74). Moreover, Vey was wearing her tinted prescriptions in tact at # 1 detective station of 1984 (TT 74, 103). (Photo TT 125 shown in courtroom)

13) Detective said Vey had a knife, yet never produced it at Trial

14) There was attempt to lie about clothes in Vey's purse by detective, clothes that would have covered alleged gun (TT 107, 102, 103, 122).

15) There was suppose to be a pony tail holder at bridge scene, but never produced. Vey's hair too short for pony tail at time and it could have been a man's: men wear pony tails (TT)

16) Brown bag tampering by men gang (CIT 44).

17) Denied evidence (TT 71-102).

18) All Vey knew was what police told her, dreams.. (TT 267/6).

19) The evidence of the attached telegram from the deceased to Dr. Eileen Vey proves that he chased Vey even when she was in Louisiana at Baptist Christian College and University. Also note his address on telegram (Exhibit 4), telling her he loves her.

20) The evidence of the attached love letter signed by deceased to Eileen states, "All the hatred (his) went away....I can not visualize a day without having you near or not hearing your voice..." (Exhibit 5)

21) It is totally irrational for any intelligent mind to believe the deceased son's statement that deceased was not on the road as what ex-husband, Mr. Mushinsky, would permit anyone to stay after he clearly threw deceased out of his home and did not permit deceased ever to come to his house again, because 1) deceased wanted by law; 2) deceased attempted a homocide on Eileen Vey in his home; and 3) for destroying his property, when deceased booted door in to get to Vey, when she would not see him. The

son admits to chasing her also with his calls, which he attempts to rationalize with the court. (See Mushinsky TT)

22) Kangeroo Court witnesses (Credibilty): As shown above and a) the Trial D.A. became a witness at trial against Vey on someone else's alleged behalf, without Vey facing person at trial (TT 277) ; b) Lt LeDonne was clearly aiding and abetting fugitive from justice (TT 278) and said he saw Vey year prior to arrest at hospital, while medical record shows she was being treated in ER (TT 283, 288, 293, 294).

23) Vey had no jury: she had a black judge at time black men were getting more time than whites. Considering everyingthing in case racial prejudice is also suspect. Vey proved good member in comunity standing yet she received 18 years, while others 5 years for 3rd Degree. (Lawyer incompetency)

24) Vey was denied state defenses for which she qualified.

25) Vey was identified in a courtroom, where she was obviously sitting next to a lawyer; yet she looked completely different at trial a year after bridge tragedy.

26) Vey denied "equal protection" of Stonehouse relief in previous and this PCRA.

GANG AMBUSH

1) There was a gang of men at all angles at the bridge at time deceased went down (CIT 41), when the deceased went down with an alleged silencer: no 32 noise (CIT 6 & 7).

2) Deceased was having problems with Union workers at time, threats, always carried weapons, etc. (TT 174-177) and wanted by FBI, tax, what (TT 290/17)?

3) Deceased close Union friend "Joe" was working at #1 police station 1984 with same detectives involved herein. Vey saw him hide when she went for gun charge at #1 station week later..

4) Deceased body was burned immediately, no evidence.

5) There was another woman seen same time of incident or alleged shooting (TT 60/25).

6) Union related matter?

7) White wagon man had great expertise testimony re guns for a person " just happened along" on a 1984 8AM Sat morning.

THE LAW

THE LAW concerning PRIMA FACIE: Courts use the concept of "prima facie" case in two senses: (1) in sense of plaintiff producing evidence sufficient to render reasonable a

conclusion in favor of allegation she asserts; and (2) in sense that, not only the palintiff's evidence would reasonable allow conclusion plaintiff seeks, but also that plaintiff's evidence compels such a conclusion, if the defendants produce no evidence to rebut it, **Husbands v. Com of PA**, D.C. of PA, 395 FS 1107, 1139.

PRIMA FACIE EVIDENCE is evidence good and sufficient on its face and such evidence which, in the judgment of the law, is sufficient to establish a given fact. Moreover, prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports. State v. Haremza, 213 Kan. 201, 512 P.2d

STATE LAW

CRITERION OF WHICH VEY MET:

42 PA SC § 9545(b)(1) "Any petition this subchapter, including a second or subsequent petition shall be filed within one year of the date the judgment becomes final, unless petition alleges and the petition proves that:

"(i) failure to raise the claims previously was the result of inteference by government officials with the presentation of the claim in violation of the PA Constitution or laws of this Commonwealth or the Constitution of the United States;"

"(ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or"

Vey had right to competent lawyer; the record shows gross incompetency, conflict of inerest (see below). The U.S. SUPREME COURT Cuyler v. Sullivan, ineffective xounsel is shown 1) conflict or interest (ex-D.A. was Vey's lawyer); 2) conflict had adverse effect. Vey had right to effective counsel, U.S. SUPREME COURT'S, Williams v. Taylor (2000), 529 US ____; 120 SCt 1495 (2000); 146 LEd 2d 389 (2000). Lack of diligence without counsel, Keeney v. Tamayo-Rayes (1992) 504 US 1; Murray v. Carrier 477 US 478, 490, 492.

"(iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of PA after the time period provided in this section and has been held by that court to apply retroactively."

The U.S. SUPREME COURT, Fiore v. White (1999), 119 SCt.1332, In reference to Post Conviction Relief, "state courts has a Constitutional obligation to apply their decisions retroactively."

The U.S. SUPREME COURT in Hopins v. Newman (2000) 67 CrLR 4 (99-1401) "Standard for granting relief: harmless error."

The U.S. SUPREME COURT, when there is a miscarriage of justice, which shows inneffective counsel, relief should be granted. Edwards v. Carpenter (2000) 529 US ___; 146 LEd 518, 120 SCt __.

The trial court erred tremendously. Vey's petition and responses shows voluminous reasons for addressing the merits and its compliance with statute to which the court refers.

The appellant, Vey, met the criterion of which the trial court cites THREEFOLD:.

I. INTERFERENCE BY GOVERNMENT OFFICIALS 16 YEARS:

You can not prosecute a person without being government officials. The entire 16 years record of Vey's case proves there has been interference by government officials, because Vey has yet to receive rightful relief even though the facts of entire state record, CORONER'S INQUEST TRANSCRIPTS (ommitted as evidence), and Vey's petition and Brief here prove she is not shooter, nor is there any evidence to link her to Bridge. The is further proves that at no time was this case ever treated professionally as a homocide case. Except for the Coroner's Inquest all attornies were state official appointed. The Coroner's Inquest attorney was referred by the police, which attorney was suppose to be a professor at law, yet the fact case was never treated as a homocide case, it is suspect. When Vey could not afford him after that, a Public Defender was appointed, who is now in a law partnership with the same D.A., who tried Vey's case. The state official appointed attorney after the PD, was an ex-D.A., an obvious conflict of interest, who was trial lawyer. Another state official appointed attorney was hired for a previous PCRA, who abandoned her and the trial court judge retired and left her PCRA in limbo 4 years! Biased ineffective attornies appointed by state officials. Indeed, government interference without a doubt! Furthermore, know that this statute violates "DUE PROCESS," "SUSPENSION CLAUSE" OF Article I § 9(2), etc., especially for those with Vey's situation (legislators' illegal laws interference.) As Vey stated in her litigation herein, a PCRA IS A HABEAS CORPUS.

II. 16 YEARS DUE DILIGENCE NEVER APPLIED TO VEY'S CASE BY STATE OFFICIAL APPOINTED BIASED INNEFFECTIVE ATTORNIES: the record shows Vey was

suffering "Battered Wife Syndrome", which made it too traumatic to read transcripts, as even recently, when she read newly discovered Inquest and Trial data. Vey depended on the lawyers. The U.S. Constitution GIVES RIGHT TO COMPETENT, UNBIASED, NO CONFLICT OF INTEREST, COUNSEL. Because state official appointed lawyers, NEVER DID VEY HAVE A LAWYER competent and acting in her behalf, never was there the "exercise of due diligence," never was Vey's case treated professionally as a homocide case, even newspaper was used to prejudice Vey with police statement that she was coldblooded, then case was kept quiet (case stinks), until small article on verdict. Again, there is no evidence that places defendant at the Bridge and initial evidence of CIT proves she is not the shooter.

III. UNTIMELINESS OF U.S. CONSTITUTIONAL (ETC) RIGHTS: The voluminous rape of rights shown in brief, petition, etc.. are rights that are untimely. Vey has met the statues exceptions threefold in PCRA!

Article I § 9(2): nonsuspension of writ of habeas corpus

Amendment 1: right to petition Government for redress of grievances, kidnapped

Amendment 2: right of people to keep & bear arms

Amendment 4: unreasonable search & seizure

Amendment 5: double jeopardy violations

Amendment 6: a) right to speed; b) right to keep silence without any interference; c) right not to testify against self; d) right to competent counsel

Amendment 8: a) excessive bails illegal; b) cruel & unusual punishment during arrest and custody at #1 station

Amendment 9: right to U.S. Constitution

Amendment 14: right to "equal protection" of all laws, privileges, etc., DUE PROCESS

ONE MAN'S TESTIMONY ISSUE

When there is no evidence against a person, OR IF EVIDENCE DISPROVES A PERSON'S INVOLVMENT, AS VEY'S CASE, should the Court accept the testimony of one questionable witness, who claims a suspect confessed to him, when defendant claims otherwise? Should such a testimony be accepted as truth, when a man's life is in jeopardy, witness has alterior motives (conviction for political motives, malicious prosecution, use of fallguys, or whatever scam is being run). Moreover, should such a witness's testimony be accepted as credible, when record evidence proves witness was violating federal crime statutes at the time he claimed he recieved a confession, viz. 18 USC § 245? SEE above and below. (Vey was horribly violated as record proves.)

CREDIBILITY OF A CONFESSION

Although the evidence clearly disproves Vey's involvment with alleged homocide, would such a statement even be credible, since she was declared suffering PTSD (post trauma stress disorder) or the "Battered Wife Syndrome?" We all know how people with mental disorders, emotional disorders, mind altering chemicals, et cetera go into police to confess crimes they never committed. Again, the EVIDENCE DISPROVES VEY INVOLVMENT ON BRIDGE, NOR SHOT GUN, SUFFERING AMNESIA, SHOCK, ET CETERA.

NONEXISTANT CONFESSION!

The D.A. refers to a NONEXISTANT CONFESSION, which nonexistence is evidenced voluminously by the state record of Vey not at bridge, but hotel, et cetera and the detective's inability to produce an alleged note taken at which time he was comitting federal crimes, which invalidates him as a credible witness regardless of the evidence proving the NONEXISTANCE of a confession.

GUN NOT VEY'S (NO GUN MATCH)

Vey's ineffective counsel, ex-D.A., had the burdon of proof placed on his client, Dr. or Mrs. Vey, who had to prove her innocense: unconstitutional. This same ex-D.A. gave the court a gun purchase slip, which only showed that Dr. Eileen Vey purchased a gun. Never was the gun used at trial court proven to be Vey's in that NO FINGERPRINTS and NO SERIAL NUMBER MATCH. This is not found by her at all. Therefore, the burden of proof is on D.A. to prove there was not a fill-in gun used at that trial. After considering all the other things that occurred in this

case, this gun fill-in is now extremely suspect.

FAKED DEATH OR "HIT"?

Faked Death?: Vey's husband was wanted by local authorities and F.B.I. and often stated that if he were caught, he would have to do more time than a life sentence at his age (around 60 at time).

"Hit?": The alleged deceased had a "shady" past in that he was involved in Union business with union leader, who was in federal court for some violations, lived in D.C.'s Fall Church, where he said he posed as an admiral of the Navy for some crazy reason (C.I.A. possibility?), had many high place contacts, which he visited (was a boilermaker in union), ... Was someone afraid he would trade crime data in exchange for his freedom (wanted by F.B.I.)? (body burned)

BODY NOT ALLEGED DECEASED!

THAT WAS NOT HUSBAND GENE VEY'S BODY, WHO SMOKED KOOLS MENTHOLATED CIGARETTES: NO TOXOLOGY REPORT OF *NICOTENE* OR METHOL! See CIT'S toxology report attached hereto. (According to petitioner's discussion with Coroner's Office past year, this is only toxology report.) Remember, body was burned immediately.

RE: DOUBLE JEOPARDY

Again, Vey was aquitted of First Degree Homocide, and has served almost the entire sentence of 18 years for the conviction of 3RD Degree Homocide, and, therefore, submits the following legal data in reference to this. (MALICIOUS PROSECUTION)

From the GEORGETOWN LAW REVIEW , Volume 88, August 2000:

"The "Double Jeopardy" clause of the Fifth Amendment guarantees that no person shall " be subject for the same offense, to be twice put in jeopardy of life and limb." The clause provides three separate protections for criminal defendants: protection against reprosecution for same offense after an aquittal, protection against prosecution for same offense after aconviction, and protection against multiple punishments for the same offense. Jeffes v. US (1977) 432 US 137, 155; Benton v. Maryland (1969) 395 US 784, 794; also applies to states: Cist v. Bretz (1978) 437 US 28, 37-38 due to integral parts of US Constitution Greene v. Massey (1978), 437 US 19, 24; applies to both

137, 155; Benton v. Maryland (1969) 395 US 784, 794; also applies to states: Cist v. Bretz (1978) 437 US 28, 37-38 due to integral parts of US Constitution Greene v. Massey (1978), 437 US 19, 24; applies to both misdemeaners and felony charges, Ex parte Lange 85 US ___.

Again, U.S. SUPREME COURT, Hopins v. Newman (2000) 67 CrLR 4 (99-1401) "Standard for granting relief: harmless error," and when there is a miscarriage of justice, which shows ineffective counsel, relief should be granted," Edwards v. Carpenter (2000) 529 US ____; 146 LEd 518, 120 SCt _____; conflict of interest (ex-D.A. working for D.A., Cuyler v. Sullivan and Williams v. Taylor (2000), 529 US ___; lack of diligence of ineffective counsel, Murray v. Carrier 477 US 438, 490, 492 and Keeney v. Tamayo-Rayes (1992) 504 US 1; right to effective counsel, Williams v. Taylor (2000) 529 US ____.

CONCLUSION

WHEREFORE, since this Court has previously viewed the evidence of Vey's innocence in state case, she requests the Court expedite the granting of her prima facie habeas corpus.

Respectfully submitted,

Eileen Vey

Appendix 1

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

COMMONWEALTH OF PA Respondent	:	No. 99 WM 2000
v.	:	
EILEEN VEY, Petitioner	:	

ORDER

PER CURIAM:

AND NOW, this 17th day of January, 2001, the Application for Writ of Habeas Corpus is denied.

A True Copy Shelley A. Carrara
As of: January 17, 2001
Attest: Shelley A. Carrara
Deputy Prothonotary
Supreme Court of Pennsylvania

Appendix 2

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 00-4362

IN RE: EILEEN VEY,

Petitioner

On Petition for a Writ of Mandamus

February 26, 2001

Before: CHIEF JUDGE, BECKER, WEIS AND GARTH,
CIRCUIT JUDGES

JUDGMENT

This cause came on to be heard on a petition for writ of mandamus and was submitted for decision under Rule 21. Fed. R. App. Pro. On consideration whereof. it is now hereby ORDERED AND ADJUDGED by this Court that the petition for writ of mandamus is denied. All of the above in accordance with the opinion of this Court.

ATTEST:
Marcia M. Waldron
Clerk

DATED: March 1. 2001

Appendix 3

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 00-4362

IN RE: EILEEN VEY,

Petitioner

On Petition for a Writ of Mandamus

February 26, 2001

Before: CHIEF JUDGE, BECKER, WEIS AND GARTH,
CIRCUIT JUDGES

(Filed March 1, 2001)

JUDGMENT

PER CURIAM

On December 22, 2000, Eileen Vey filed the instant petition for a writ of mandamus. Vey requests that this Court direct Judge Bigley of the Allegheny County, Pennsylvania, Court of Common Pleas to dismiss charges that were brought against Vey over 15 years ago. Judge Bigley is apparently named in the petition because on March 29, 2000, he issued an order denying Vey's third Post-Conviction Relief Act ("PRCA") petition as untimely.

We lack jurisdiction to issue a writ of mandamus to a state court. See Demos v. United States Dist. Court, 925 F.2d 1160, 1161 (9th Cir. 1991). Moreover, regardless of how Vey has styled the instant petition, it is clear she is attempting to attack her 1985 convictions for third degree murder and carrying a firearm without

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a license. Assuming Vey meets the "in custody" requirements she can attack the state convictions only by filing a habeas corpus petition under 28 U.S.C. § 2254. Based on a review of Court records, the District Court for the Western District of Pennsylvania has previously denied on the merits two habeas petitions from Vey. See W.D. Pa. Civ. No.90-cv-00035; W.D. Pa. Civ. No. 94-2004. Therefore, if Vey wishes to pursue yet another attack upon her 1985 convictions, she would need to follow the procedures set forth at 28 U.S.C. § 2244 (and Third Circuit L.A.R. 22.5) for filing a "second or successive" habeas petition.

For reasons stated herein, Vey's petition for a writ of mandamus will be denied.

TO THE CLERK:

Please file the foregoing opinion.